

Patricia A. O'Connor (PO5645)
BRODY, O'CONNOR & O'CONNOR, ESQS.
Attorneys for Defendants
7 Bayview Avenue
Northport, New York 11768
(631) 261-7778

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
KEVIN MONELL (an infant by his parent and legal
guardian, NORBERTO MONELL) and NORBERTO
MONELL, individually,

Docket:

NOTICE OF REMOVAL

Plaintiffs,

-against-

WAL-MART STORES, INC. d/b/a WAL-MART
SUPER CENTER,

Defendant.

-----X

**TO THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK:**

Defendant, WAL-MART STORES EAST, LP i/s/h/a WAL-MART STORES, INC.
d/b/a WAL-MART SUPER CENTER, for the removal of this action from the Supreme Court of the
State of New York, County of Bronx, to the United States District Court for the Southern District of
New York, respectfully shows this Honorable Court:

FIRST: Defendant, WAL-MART STORES EAST, LP i/s/h/a WAL-MART
STORES, INC. d/b/a WAL-MART SUPER CENTER. is a defendant in a Civil action brought against
it in the Supreme Court of the State of New York, County of Bronx, entitled:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
KEVIN MONELL (an infant by his parent and legal
guardian, NORBERTO MONELL) and NORBERTO
MONELL, individually,

Index No.: 8499/2007

Plaintiffs,

-against-

WAL-MART STORES, INC. d/b/a WAL-MART
SUPER CENTER,

Defendants.

-----X

SECOND: That plaintiff's response to CPLR 3017 setting forth damages in excess of \$75,000 was received less than thirty (30) days prior to the date hereof. Thus, this notice of removal is timely under the provisions of 28 USC §1446(b).

THIRD: That this action seeks recovery for damages sustained as a result of personal injuries allegedly suffered by the plaintiff while on the defendant's premises.

FOURTH: The grounds for removal are that this Court has original jurisdiction pursuant to 28 § 1332(a)(1). The amount in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between citizens of different States.

FIFTH: The defendant, WAL-MART STORES EAST, LP i/s/h/a WAL-MART STORES, INC. d/b/a WAL-MART SUPER CENTER, is a Delaware limited partnership with its corporate headquarters and principal place of business in Arkansas. WSE Investment, LLC, is the limited partner of WAL-MART STORES EAST, LP, and WSE Management, LLC is the General Partner. Both are Delaware companies with their principal places of business in Arkansas. The sole member of both limited liability companies is Wal-Mart Stores East, Inc. Wal-Mart Stores East, Inc. is a

citizen of Arkansas. It is incorporated in Arkansas and its principal place of business is in Arkansas. Thus, for diversity purposes, the defendant is a citizen of Arkansas. See Carden v. Arkoma Assocs., 494 U.S. 185, 195-96, 110 S.Ct. 1015, 108 L.Ed.2d 157 (1990) (stating that, for purposes of diversity jurisdiction, limited partnerships have the citizenship of each of its general and limited partners) Cosgrove v. Bartolotta, 150 F.3d 729, 731 (7th Cir.1998) (stating that, for purposes of diversity jurisdiction, a limited liability company has the citizenship of its members).

SIXTH: That upon information and belief Plaintiff is a citizen of the State of New York, County of Bronx.

SEVENTH: In that this action is between citizens of different states and seeks damages in excess of \$75,000.00, than pursuant to 28 U.S.C.A. § 1332 and 28 U.S.C.A. § 1441 and § 1446 the case should be removed from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York.

Dated: Northport, New York
May 25, 2007

Yours, etc.

BRODY, O'CONNOR & O'CONNOR, ESQS.
Attorneys for Defendant

BY:


PATRICIA A. O'CONNOR (PO5645)
7 Bayview Avenue
Northport, New York 11768
(631) 261-7778

TO: STEVEN D. DOLLINGER & ASSOCIATES
Attorneys for Plaintiffs
5 Threepence Drive
Melville, New York 11747
(631) 243-3709

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) ss:
COUNTY OF SUFFOLK)

PEGGY MIKANDER, being duly sworn, deposes and says:

That your deponent is not a party to this action, is over 18 years of age and resides at West Islip, New York.

That on the 30th day of May, 2007, deponent served the within NOTICE OF REMOVAL UPON:

STEVEN D. DOLLINGER & ASSOCIATES
Attorneys for Plaintiffs
5 Threepence Drive
Melville, New York 11747
(631) 243-3709

The address designated by said attorney for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

Peggy Mikander
PEGGY MIKANDER

Sworn to before me this
30th day of May, 2007.

Kathleen McGarvey
NOTARY PUBLIC

Kathleen McGarvey
Notary Public, State of New York
No. 01MC6122032
Qualified in Nassau County
Commission Expires Feb. 07, 2009

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEVIN MONELL (an infant by his parent and legal guardian, NORBERTO MONELL) and NORBERTO MONELL, individually,

Plaintiffs,

-against-

WAL-MART STORES, INC. d/b/a WAL-MART SUPER CENTER,

Defendant.

NOTICE OF REMOVAL

Attorneys for **BRODY, O'CONNOR & O'CONNOR, ESQS.**
Defendant

7 BAYVIEW AVENUE
NORTHPORT, NEW YORK 11768
(631) 261-7778
FAX (631) 261-6411

Pursuant to 22 NYCRR 130-1.1, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, the contentions contained in the annexed document are not frivolous.

Dated: Signature:

Print Signer's Name:

Service of a copy of the within is hereby admitted.

Dated:
.....

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box



NOTICE OF
ENTRY

that the within is a (certified) true copy of a
entered in the office of the clerk of the within named Court on

20



NOTICE OF
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the
Hon. one of the judges of the within named Court,

at

on 20 , at M.

Dated:

BRODY, O'CONNOR & O'CONNOR, ESQS.

Attorneys for

7 BAYVIEW AVENUE
NORTHPORT, NEW YORK 11768

(631) 261-7778

FAX (631) 261-6411

To: